

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
TERRE HAUTE DIVISION

JOSHUA HILL,

Plaintiff,

v.

UNITED STATES,

Defendant.

)
)
)
)
)
)
)
)
)
)

No. 2:19-cv-00586-JPH-MG

ORDER GRANTING DEFENDANT'S UNOPPOSED MOTION TO DISMISS

The United States seeks dismissal of this action as a sanction for the plaintiff's failure to participate in discovery. *See* Fed. R. Civ. P. 37. The United States argues that plaintiff Joshua Hill has refused to provide basic information about his case or respond to discovery requests despite the Court's Orders. Dkt. 45 at p. 1-3; dkt. 30 (pretrial schedule Order); dkt. 38 (Order granting defendant's motion to compel). For the reasons explained below, the United States' unopposed motion to dismiss, dkt [44], is **granted**.

DISCUSSION

A district court has the ability to dismiss a case against parties who refuse to comply with discovery orders. *See* Fed. R. Civ. P. 37(b)(2)(A). "Rule 37 requires a finding of willfulness, bad faith or fault on the part of the defaulting party." *Brown v. Columbia Sussex Corp.*, 664 F.3d 182, 190 (7th Cir. 2011). In this case, the United States' motion to compel was granted and Mr. Hill was ordered to respond to the United States' interrogatories and requests for production. Dkt. 38. Mr. Hill failed to comply with this Order even after he was given an extended period of time to do so. Dkt. 42. While the Court acknowledges that dismissal is a harsh sanction, it finds that Mr. Hill's

actions were willful and in bad faith. In addition, a monetary sanction is not feasible. Dkt. 12 (granting *in forma pauperis* status).

Finally, Mr. Hill was given an extended period of time to respond to the United States' pending motion to dismiss and specifically warned that if he fails to respond to the motion to dismiss, it may be considered unopposed. Dkt. 48. The plaintiff has failed to respond to the motion to dismiss. He knew that the defendant was asking to have this case dismissed, but he has failed to give the Court any reason not to do so. Having found willfulness and bad faith on the part of Mr. Hill, the United States' unopposed motion for sanctions, including dismissal with prejudice, dkt. [44], is **granted**.

Judgment consistent with this Entry shall now issue.

SO ORDERED.

Date: 5/21/2021

James Patrick Hanlon

James Patrick Hanlon
United States District Judge
Southern District of Indiana

Distribution:

JOSHUA HILL
64101-019
COLEMAN - II USP
COLEMAN II U.S. PENITENTIARY
Inmate Mail/Parcels
P.O. BOX 1034
COLEMAN, FL 33521

Jeffrey D. Preston
UNITED STATES ATTORNEY'S OFFICE (Indianapolis)
jeffrey.preston@usdoj.gov

Shelese M. Woods
UNITED STATES ATTORNEY'S OFFICE (Indianapolis)
shelese.woods@usdoj.gov